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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/349,517	07/08/1999	RUSSELL W. MCDONALD	1106-1	6725

23429 7590 10/23/2003

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EXAMINER
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COLBERT, ELLA

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 10/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/349,517

Applicant(s)

MCDONALD ET AL.

Examiner

Ella Colbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 12-64 is/are pending in the application.
- 4a) Of the above claim(s) 6-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 12-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 05 May 2003 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

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### **DETAILED ACTION**

1. Claims 1-3 and 12-64 are pending. Claims 6-11 have been cancelled, Claims 1-3 have been amended, and claims 12-64 have been added in this communication filed 05/05/03 entered as Amendment E with formal drawings, paper no. 19.
2. The interview summary of 04/24/03 has been entered as paper no. 17.
3. The Extension of Time (2 months) filed 05/05/03 has been entered as paper no. 18.
3. Amendment E with Formal Drawings filed 05/05/03 has been entered as paper no. 19.
4. The Miscellaneous Communication sent 07/31/03 has been entered as paper no. 20.

### **Election/Restriction**

5. Claims 6-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected invention, there being no allowable generic or linking claim. Election was made without traverse in paper no. 19, filed 05/05/03.
6. Applicants' are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship in the application must be accompanied by request under 37 CFR 1.48(b) and by fee requested under 37 CFR 1.17(i).

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***Specification***

7. The disclosure is objected to because of the following informalities: Page 2, recites "Box 102 ...). Arrow 122 directs the system and procedure go to Fig. 3 page 2". This line would be better recited "'Box 102 ...). Arrow 122 directs the system and procedure to go to Fig. 3 page 2". Page 3 recites "Box 108 shows the following. If the originator has a lender's agent's license, it ...". This would be better cited "Box 108 shows the following. If the originator has a lender's/ agent's license, it ...". Page 4, beginning with "Box 162 shows ..." has a similar problem. Page 4 recites "Box 156 shows ..., ... gets license on its own". This line would be better recited "'Box 156 shows ..., ... gets license on his/her own". Pages 7-32 are replete with grammatical and punctuation errors. Applicants' are advised to check the Specification for other grammatical and punctuation errors since these are only some of the errors that were found by the Examiner. Appropriate correction is required.

***Drawings***

8. The drawings are objected to because: Arrow 150 ... Step #3, page 3 of fig. 3 is found in Step #2. fig. 3, page 2. Applicants' are requested to review the Draftsperson's Form PTO-948 and to submit the required formal drawings according to the Draftsperson's Review attached to this Office Action as paper no. 21.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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### ***Claim Objections***

9. Claims 12 and 41 are objected to because of the following informality: It is not clear what CC and R stands for in the claim.

Claims 28, 53 and 63 are objected to because of the following informalities: Claim 28 recites "... , a broker/dealer, a stock broker, and insurance broker/dealer, and an attorney". Do Applicants' mean "... , a broker and a dealer, a stock broker, and insurance broker and agent, and an attorney" or "... , a broker or a dealer, a stock broker, and insurance broker or agent, and an attorney"? Claims 53 and 63 has a similar problem.

Claim 33, line 2 recites "... loan originator computer;". This line should recite "... loan originator computer. "

Claims 60 and 61 were not consider because claims 60 and 61 depend on cancelled claim 6. The Examiner could not determine which claim or claims the Applicants' wanted claims 60 and 61 to depend on.  
Appropriate correction is required.

Claim 32, the preamble recites "A method of managing ...". It is suggested to add "A computerized method of managing ..." in order to determine that the method steps are performed on a computer and not a manual process. The method steps technically seem to be more system steps than method steps. "Generating" and "transferring" are steps that a computer system perform. The "wherein the loan originator provides services ..." and "wherein the loan originator is not the loan broker"

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appear to be method steps. Please clarify in claim 32 since the method and claim steps appear to be mixed.

10. As a preliminary matter, attached to this Office Action is the required format for the submission of amendments under 37 CFR 1.121 in order to be in compliance with the new Rule changes effective as of July 30, 2003.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 1-2, 32, 34, are rejected under 35 U.S.C. 103(a) as being unpatentable (US 5,995,947) Fraser et al, hereafter Fraser over (US 5,940,812) Tengal et al, hereafter Tengal.

As per claims 1 and 32, Fraser teaches, A data processing system for managing the origination of a mortgage loan by a loan originator in coordination with a loan broker for a loan customer, comprising: means for collecting data regarding the loan customer not previously possessed by the loan originator (col. 2, lines 12-20 and col. 9, lines 35-45); wherein the loan originator provides services necessary for the origination of the mortgage loan and not duplicative of services provided by the loan broker (col. 9, lines 53-67 and col. 10, lines 1-15); and wherein the loan originator is not the loan broker (col. 10, lines 16-21, col. 6, lines 20-25, and col. 7, lines 21-23 (broker and lender comparison)).

Fraser fails to teach, means for generating disclosure documents regarding the mortgage loan and the already possessed data and the not previously possessed data regarding the loan customer; and means for transferring the loan application to the loan broker. Tengal teaches, means for generating disclosure documents regarding the mortgage loan and the already possessed data and the not previously possessed data regarding the loan customer (col. 8, lines 37-67 and col. 9, lines 1-3); and means for transferring the loan application to the loan broker (col. 9, lines 23-65 and col. 10, lines 1-19). It would have been obvious to one having ordinary skill in the art at the time the

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invention was made to have a means for generating disclosure documents regarding the mortgage loan and the already possessed data and the not previously possessed data regarding the loan customer; and means for transferring the loan application to the loan broker and to modify in Fraser because such a modification would allow Fraser to have a system that

As per claims 2 and 34, Fraser teaches, The data processing system recited in claim 1, further comprising: means for transferring data from a remote computer system to the data processing system (col. 6, lines 63-67 and col. 10, lines 35-61); and means for incorporating the transferred data into the loan application (col. 9, lines 37-52).

15. Claims 3- 24, 30, 43-48, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser and Tengel in view of (US 6,192,347) Graff.

As per claim 3, Fraser teaches, The data processing system recited in claim 1, further comprising: means for ordering at least one required legal document for the mortgage loan (col. 3, lines 63-67 and col. 4, lines 16-21).

As per claim 12, Fraser and Tengel fail to teach, The data processing system recited in Claim 3, wherein the required legal document is a member of the collection comprising: a preliminary title report, a CC and R, and a homeowners association certificate.

Graff teaches, wherein the required legal document is a member of the collection comprising: a preliminary title report, a CC and R, and a homeowners association certificate (col. 11, lines 17-27). It would have been obvious to one having ordinary skill



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in the art at the time the invention was made to have the required legal document as a member of the collection comprise a preliminary title report, a CC and R, and a homeowners association certificate and to modify in Fraser and Tengel because such a modification would allow Fraser and Tengel to have a title to a term of interest in a property and a separate title to a remainder interest in the property.

As per claim 13, Fraser teaches, The data processing system recited in Claim 2, means for transferring data from the remote computer system is further comprised of means for transferring data from a credit reporting computer system regarding the loan customer to the data processing system (col. 5, lines 23-30).

As per claim 14, Fraser and Tengel fail to teach, The data processing system recited in Claim 2, means for transferring data from the remote computer system is further comprised of: means for requesting a report from an inspection agency regarding the loan application; and means for transferring the data from the inspection agency regarding the requested report to the data processing system.

Graff teaches, The data processing system recited in Claim 2, means for transferring data from the remote computer system is further comprised of: means for requesting a report from an inspection agency regarding the loan application (col. 16, lines 35-55); and means for transferring the data from the inspection agency regarding the requested report to the data processing system (col. 16, lines 55-67 and col. 17, lines 1-9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have means for transferring data from the remote computer

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system is further comprised of: means for requesting a report from an inspection agency regarding the loan application; and means for transferring the data from the inspection agency regarding the requested report to the data processing system and to modify in Fraser and Tengel because such a modification would allow Fraser and Tengel to have a system to have a disclosure document for securities law purposes for the securitized remainder real estate component.

As per claim 15, Fraser and Tengel fail to teach, The data processing system recited in Claim 14, wherein the inspection agency is a flood certification company, and the requested report determines whether the property is in a special flood hazard zone.

Graff teaches, wherein the inspection agency is a flood certification company, and the requested report determines whether the property is in a special flood hazard zone (col. 172, lines 49-67 and col. 173, lines 1-25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the inspection agency to be a flood certification company, and the requested report determines whether the property is in a special flood hazard zone and to modify in Fraser and Tengel because such a modification would allow Fraser and Tengel to know if there are any hazards such as flooding that would affect the insurance rate.

As per claim 16, Fraser teaches, The data processing system recited in Claim 1, further comprising: means for configuring the data processing system to act as the loan originator computer (col. 6, lines 5-13 and lines 20-25).

As per claim 17, Fraser teaches, The data processing system recited in Claim 16, wherein the means for configuring the data processing system is further comprised

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of at least one member of the collection comprising: means for determining whether the loan originator needs a license (col. 6, lines 20-33); and means for aiding a licensed loan originator in where to hang the license (col. 6, lines 42-51).

As per claim 18, Fraser fails to teach, The data processing system recited in Claim 1, wherein the means for generating the loan application is further comprised of: means for translating from a loan originator's database to import information into the loan application.

Tengel teaches, wherein the means for generating the loan application is further comprised of: means for translating from a loan originator's database to import information into the loan application (col. 8, lines 37-49).

Fraser teaches, wherein the loan originator is not a loan officer (col. 7, lines 26-67 and col. 8, lines 1-5); and wherein the loan originator's database is not a loan officer's database (col. 2, lines 15-46). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a means for translating from a loan originator's database to import information into the loan application and to modify in Fraser because such a modification would allow Fraser to download to a consumer terminal a we-page that includes a borrower loan application form.

As per claims 19 and 43, Fraser fails to teach, The data processing system recited in Claim 18, wherein the loan originator's database includes a personal finance database of the loan customer.

Tengel teaches, wherein the loan originator's database includes a personal finance database of the loan customer (col. 5, lines 12-19). It would have been obvious

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to one having ordinary skill in the art at the time the invention was made to have the loan originator's database include a personal finance database of the loan customer and to modify in Fraser because such a modification would allow Fraser to have a specification of borrower attributes stored into a database.

As per claims 20, 30, 44, and 55, Fraser fails to teach, The data processing system recited in Claim 19, wherein the loan originator is the loan customer.

Tengel teaches, wherein the loan originator is the loan customer (col. 7, lines 1-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the loan originator as the loan customer and to modify in Fraser because such a modification would allow Fraser to place the loan acceptance criteria in the database.

As per claims 21 and 47, Fraser fails to teach, The data processing system recited in Claim 1, wherein the loan originator is the loan customer; and wherein loan customer has access to the data processing system through a member of the collection comprising: an employer of the loan customer.

Fraser and Tengel failed to teach, a club to which the loan customer is a member, an organization to which the loan customer is a member, a church group to which the loan customer is a member, a school to which a child of the loan customer attends, and a sports group to which the loan customer is a member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a club to which the loan customer is a member, an organization to which the loan customer is a member, a church group to which the loan customer is a member, a

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school to which a child of the loan customer attends, and a sports group to which the loan customer is a member and to modify in Fraser and Tengel because these are simply attributes that are required of a person applying for a loan at certain financial institutions and mortgage companies.

Tengel teaches, The data processing system recited in Claim 1, wherein the loan originator is the loan customer; and wherein loan customer has access to the data processing system through a member of the collection comprising: an employer of the loan customer (col. 7, lines 1-19 and lines 20-28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have wherein the loan originator is the loan customer; and wherein loan customer has access to the data processing system through a member of the collection comprising: an employer of the loan customer and to modify in Fraser because such a modification would allow Fraser to have borrower attributes that a borrower must possess to qualify for a lender's offered loan.

As per claims 22 and 45, Fraser teaches, The data processing system recited in Claim 1,

wherein the means for collecting data not already possessed is further comprised of means for data entry making assumptions that require a minimum data fields be entered by the loan originator (col. 3, lines 46-67 and col. 5, lines 34-44). Fields are inherent to a relational database as is well known in the database art.

As per claims 23 and 46, Fraser teaches, The data processing system recited in Claim 1,

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wherein the means for generating the loan application is further comprised of means for determining which forms are appropriate to the loan application. (col. 1, lines 22-46).

As per claims 24 and 48, Fraser and Tengel fail to teach, The data processing system recited in Claim 1, wherein the disclosure documents include a notice disclosure statement further including an estimate of the loan origination fee to be paid to the loan originator.

Graff teaches, wherein the disclosure documents include a notice disclosure statement further including an estimate of the loan origination fee to be paid to the loan originator (col. 16, lines 35-54). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the disclosure documents include a notice disclosure statement further including an estimate of the loan origination fee to be paid to the loan originator and to modify in Fraser and Tengel because such a modification would allow Fraser and Tengel to have a disclosure document for securities law purposes.

16. Claims 25, 26, 31, 33, 49-54, 56-59, and 62-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser, Tengel, and Graff in view of Dictionary of Business Terms.

As per claims 25 and 50, Fraser fails to teach, The data processing system recited in Claim 1, further comprising: means for analyzing the financial market to determine when there is financial advantage to refinancing a current loan. It would have been obvious to one having ordinary skill in the art at the time the invention was made

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to have a means for analyzing the financial market to determine when there is financial advantage to refinancing a current loan and to modify in Fraser because such a modification would allow Fraser to know the percentage rate and whether it is worth refinancing a current loan to lower the payments.

As per claims 26 and 51, Fraser teaches, The data processing system recited in Claim 1, wherein the loan originator is not the loan customer (col. 2, lines 12-31).

As per claims 27, 52, and 62, Fraser failed to teach, The data processing system recited in Claim 26, wherein the loan originator is at least one member of the collection comprising: a real estate broker, a real estate agent, a home builder, an FSBO, and a relocation company.

The Dictionary of Business Terms teaches, a real estate broker (page 566), a real estate agent (page 566), a home builder, an FSBO (page 252), and a relocation company. These terms are all well known in the business art and it would have been obvious for a skilled artisan to modify in Fraser because being a member of this collection would entitle Fraser to arrange for the sale or purchase of property for a buyer or seller in return for a commission and to have a state license.

As per claims 28, 53, and 63, Fraser did not teach, The data processing system recited in Claim 26, wherein the loan originator is at least one member of the financial planning

professional collection comprising: a financial planner, a CPA, a broker/dealer, a stock broker, an insurance broker/agent, and an attorney.

The Dictionary of Business Terms teaches, the financial planning

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professional collection comprising: a financial planner (page 257), a CPA (page 98), a broker/dealer (page 68 and page 164), a stock broker (page 576), an insurance broker/agent (page 341 and 342), and an attorney. These are well known in the business art and it would have been obvious to modify in Fraser because such a modification would allow Fraser to be an employee of a stock exchange member broker/dealer who acts as an account executive for clients.

As per claims 29, 54, and 64, Fraser fails to teach, The data processing system recited in Claim 26, wherein the loan originator is a member of the financial institution collection

comprising a bank, a savings and loan, a thrift, and a credit union. The Dictionary of Business Terms teaches, financial institution collection comprising a bank (page 50), a savings and loan (page 609), a thrift (page 694), and a credit union (page 154). These are well known in the business art and it would have been obvious to modify in Fraser because such a modification would allow Fraser to be able to issue loans and credit.

As per claims 31 and 58, Fraser failed to teach, The data processing system recited in Claim 1, further comprising a computer accessing memory containing at least one program implementing the means recited in Claim 1. A memory is inherent to any computer system even though it is not specifically stated in Fraser.

As per claim 33, Fraser teaches, The method of claim 32, further comprising the step of the loan originator operating a computer as a loan originator computer (col. 3, lines 12-16 and fig. 1 (130 & 120)).



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As per claims 49, 56, and 59 Fraser teaches, The loan origination fee as a product of the process recited in Claim 48 (col. 1, lines 10-46).

**Conclusion**

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure..


Good et al (US 6,314,404) disclosed real estate brokerage referrals.

**Inquiries**

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday from 6:30 am -5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-746-5622 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
E. Colbert  
October 14, 2003